

EXHIBIT 4

THADDEUS WANDEL
Amro Ali vs Westchester Medical Center

September 30, 2020

1

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 AMRO ALI, M.D.

6 PLAINTIFF,

7 -against-

8 No.: 19-CV-08324
9 (DLC)(DCF)

10 WESTCHESTER MEDICAL CENTER and NEW YORK
11 MEDICAL COLLEGE,

12 DEFENDANTS.
13 -----X

14 DATE: September 30, 2020

15 TIME: 10:44 A.M

16 REMOTE DEPOSITION of the Defendant,
17 by THADDEUS WANDEL, taken by the Plaintiff,
18 pursuant to a Notice and to the Federal Rules
19 of Civil Procedure, held via video
20 teleconference, before Diane Buchanan, a
21 Notary Public of the State of New York.
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A P P E A R A N C E S:

ROBERT W. SADOWSKI, PLLC
Attorneys for the Plaintiff
800 Third Avenue
New York, New York 10022
BY: ROBERT SADOWSKI, ESQ.

MEYER SUOZZI ENGLISH & KLEIN, P.C.
Attorneys for the Defendants
1350 Broadway
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BY: PAUL MILLUS, ESQ.

ALSO PRESENT: Newman Hoffman
Daniel Rinaldi
Amro Ali

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

* * * *

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T H A D D E U S W A N D E L , called as a
witness, having been first duly sworn by a
Notary Public of the State of New York, was
examined and testified as follows:

EXAMINATION BY

MR. SADOWSKI:

Q. Please state your name for the
record.

A. Thaddeus Wandel.

Q. What is your address?

A. 100 Crow Hill Road, Mount Kisco,
New York 10549.

Q. Good morning. My name is Robert
Sadowski. I represent plaintiff in an action
against New York Medical College and
Westchester Medical Center, Dr. Amro Ali.
Let me ask you: Have you ever been deposed
before?

A. Yes.

Q. How many times?

A. Under ten, more than six.

Q. Okay. Let's just refresh the
rules. The most important rule is that we
not talk over one another so that if you

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2 could please wait until I finish asking my
3 question before you begin answering it so
4 that the court reporter can take down both of
5 what we are saying because she cannot take
6 down both of us talking at the same time. At
7 certain points during the deposition counsel
8 for the defendants may object. You are still
9 required to answer the question unless
10 counsel directs you not to answer. If at any
11 time you want to take a break, we will do
12 that. I just ask that if there's a pending
13 question you answer that question before we
14 break. If at any time you don't understand
15 my questions, please let me know. If you do
16 answer it we will assume you understand my
17 question and you can answer it
18 comprehensibly. Do you understand the
19 instructions I've given you?

20 A. Yes.

21 Q. Okay. Are you represented today by
22 counsel?

23 A. Yes.

24 Q. And who is that?

25 A. Mr. Newman Hoffman for New York

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2 Medical College and present gentlemen who is
3 working with me. I have trouble with names
4 at times.

5 Q. Okay. Is that Mr. Millus?

6 A. Yes.

7 Q. Are you employed by New York
8 Medical College?

9 A. Yes.

10 Q. And what is your position?

11 A. As the program, resident training
12 program director.

13 Q. And how long have you held that
14 position?

15 A. Five years.

16 Q. And are you employed by New York
17 Medical College?

18 A. Now, yes.

19 Q. What is your position at
20 Westchester Medical College?

21 MR. MILLUS: New York.

22 A. New York Medical College. I am now
23 the Ameritas program director.

24 Q. Just so I understand, you are the
25 resident training director at New York

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2 Medical College, correct?

3 A. Yes, that was as of 2016.

4 Q. And you are Ameritas training
5 director at WMC, Westchester Medical Center?

6 A. New York Medical College.

7 Q. So, does that indicate that you are
8 retired?

9 A. Yes.

10 Q. And are you employed at all by
11 Westchester Medical Center?

12 A. The money that I receive on a New
13 York Medical College paycheck I believe
14 originates at the Westchester Medical Center.

15 Q. How did you come to that
16 understanding?

17 A. There is an affiliation contract
18 between Westchester Medical Center and New
19 York Medical College. I believe at the time
20 2016 we are discussing this, the money was
21 coming directly in a paycheck from
22 Westchester Medical Center by way of federal
23 money. The more recent paycheck has money
24 going from Westchester Medical Center to New
25 York Medical College, so I receive it on the

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2 New York Medical College paycheck.

3 Q. When did you retire from residence
4 training at New York Medical College?

5 A. About three months ago.

6 Q. As Ameritas training director, what
7 are your current duties and responsibilities
8 at this time at the medical college?

9 A. I'm in charge of the wellness
10 program and acting as a liaison between the
11 residents and the current program director
12 and chairman.

13 Q. Who is the current program director
14 at New York Medical College?

15 A. Dr. Sankara Mahesh.

16 Q. What field of medicine did you
17 practice?

18 A. In ophthalmology. I'm the glaucoma
19 specialist.

20 Q. Do you know a doctor by the name of
21 Amro Ali?

22 A. Yes.

23 Q. How did you first come to know Dr.
24 Ali?

25 A. By way of Dr. Sharma, Dr. Sharma

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2 who is the head of the resident of the
3 ophthalmology research branch of the
4 ophthalmology department told me that he had
5 recruited Dr. Amro to help develop a research
6 program in ophthalmology at New York Medical
7 College.

8 Q. When was that?

9 A. I believe it was approximately
10 October of 2015. I may be off on the date
11 but not by too much.

12 Q. Okay. When did you first meet Dr.
13 Ali?

14 A. I am not clear whether I met him
15 over in Dr. Sharma's laboratory at New York
16 Medical College or whether he introduced me
17 to him over at the Westchester Medical
18 Center, but it was in the context of hi, this
19 is Dr. Amro, he's going to help me develop a
20 research program.

21 Q. Why did Dr. Sharma need someone to
22 help develop the research program?

23 A. Dr. Sharma was having issues
24 getting NIH grant money to maintain a
25 research program in his area of

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2 ophthalmologic nerve regeneration. So, he
3 was looking for a new person to create new
4 ideas for research in ophthalmology.

5 Q. Let me show you an exhibit.

6 (Wandel Exhibit 1, January 14, 2015
7 letter, marked for identification, as of
8 this date.)

9 Q. Do you see this, what I'm showing
10 you is marked Wandel Exhibit 1. You see this
11 is Exhibit 1, it's the logo that is the
12 ACGME. What does that stand for?

13 A. Accreditation Counsel for Graduate
14 Medical Education.

15 Q. What does that body do?

16 A. It evaluates training, resident
17 training programs nationally to ensure
18 uniform quality of the training, to ensure
19 patient safety. The organization was
20 developed to promote patient safety and
21 training standards for American residents.

22 Q. Okay. Now you see this letter it's
23 dated January 14, 2015, addressed to you as
24 program director, Westchester Medical Center.
25 And now I'm going to scroll down and this

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first subject heading resolved citations, the review committee determined that the following citations have been resolved. Scholarly activities since 11/1/2012, status resolved. Do you see this citation resolution?

A. Yes.

Q. Okay. Can you tell me was there an issue with ACGME over the scholarly activities at New York Medical College and at the Westchester Medical Center program?

A. Yes.

Q. What problem?

A. We were not active in scholarly activities and basic research as much as the ACG meeting would like to see us.

Q. And is that one of the reasons that Dr. Ali was recruited by Dr. Sharma?

A. Yes.

Q. I'm showing what is marked Sharma. Exhibit 1. It's an e-mail chain and it starts out from Amro Ali on October 16, 2015 to Raymond Wong, Tad Wandel, Sansar Sharma. Ophthalmology is the finest art of medicine,

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2 addressed to you as well as Dr. Sharma and
3 Dr. Wong. And it states this letter is part
4 of my formal application to PGY2, the
5 residency position available at the
6 department of ophthalmology. The enclosed
7 c.v. information about my past experiences in
8 addition to my SF application. However, I
9 would like to bring to your kind attention
10 certain points that I believe demonstrate how
11 the background precisely fits your ongoing
12 needs. When you received this e-mail, Dr.
13 Wandel, did you review it?

14 A. Yes.

15 Q. Okay. Did you see the enclosed
16 c.v. information and Dr. Ali's past
17 experiences and his SF application?

18 A. Yes.

19 Q. The SF application that stands for
20 San Francisco match?

21 A. Yes.

22 Q. And the PGY2, that's the
23 ophthalmology residency program second year?

24 A. No, that would be program, he would
25 have an internship which is PGY1. And then

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2 the first year of training in ophthalmology
3 is PGY2.

4 Q. Okay. So, at this time included in
5 the San Francisco match application you would
6 have seen his scores for the scores for step
7 1 and 2 of the USMLE?

8 A. Yes.

9 Q. Okay. And USMLE stands for what?

10 A. I believe something like U.S.
11 medical. I'm not sure of the last letter.

12 Q. Would it be licensing exam?

13 A. Yes.

14 Q. And also in the c.v. you would have
15 seen the various training and fellowships
16 that Dr. Ali had attended?

17 A. Yes.

18 Q. And in that package would have also
19 included letters of recommendation from his
20 supervisors in his various past fellowship
21 programs?

22 A. Yes.

23 Q. And you would have seen that he was
24 a graduate of the medical school at the
25 Alexandria School in Egypt?

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2 A. Yes.

3 Q. Dr. Wandel, I'm showing you what
4 has been marked as Ali Exhibit 5. This is
5 from New York Medical College and it is
6 addressed to Dr. Ali and signed by the Dean
7 of the School of Medicine Douglas Miller.
8 And have you ever seen this document before?

9 A. I don't recollect that I ever saw
10 that.

11 Q. Okay. You do understand that Dr.
12 Ali was offered a full-time faculty position
13 at the New York School of Medicine?

14 A. I don't recollect immediately but
15 it would be appropriate.

16 Q. And it would be appropriate because
17 in order to apply for grants such as NHI
18 grants he would need to be a full-time
19 faculty member of the School of Medicine,
20 correct?

21 A. Yes.

22 Q. What did you understand Dr. Ali's
23 duties and responsibilities to be as a
24 full-time faculty member at New York Medical
25 College?

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2 A. His requirements would be totally
3 under Dr. Sharma's supervision and involved
4 working at in Dr. Sharma's laboratory.

5 Q. Okay. And would that be doing
6 research and publishing peer reviewed
7 articles?

8 A. Yes.

9 Q. And if I represented to you that
10 Dr. Ali produced eight articles for
11 publication; do you recall that?

12 A. I'm not aware of the exact number.
13 But I was aware that he did produce peer
14 review articles.

15 Q. Okay. And were you listed as a
16 co-author on those articles?

17 A. I believe on one, perhaps, two I
18 was listed.

19 Q. And was Dr. Sharma listed as a
20 co-author on some of those articles?

21 A. I would think he would be co-author
22 on all of them.

23 Q. In addition to articles do you
24 recall that Dr. Ali submitted IRB's?

25 A. Yes.

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2 Q. How many?

3 A. I'm not aware of the total number.

4 Q. Did he apply for grants?

5 A. Yes, but, again, their number and
6 to granting organization I'm not totally
7 aware of. That was in a context over in Dr.
8 Sharma's laboratory which is physically
9 separated from the hospital by reasonable
10 walk.

11 Q. On Dr. Ali's position as a
12 full-time faculty member for the School of
13 Medicine at New York Medical College was
14 unpaid, correct?

15 A. I learned of that after he had
16 worked with Dr. Sharma for a time.

17 Q. How did you learn of that?

18 A. Dr. Sharma had some money in some
19 grant somewhere to provide some
20 reimbursement.

21 Q. When did you learn that Dr. Ali's
22 position was unfunded?

23 A. A couple of months after he
24 started.

25 Q. Okay. And how did you learn that?

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2 A. I asked Dr. Sharma like how is this
3 guy putting bread on his table and Dr. Sharma
4 said that he volunteered.

5 Q. What caused you to ask Dr. Sharma
6 how is this guy putting bread on the table?

7 A. Curiosity.

8 Q. If you were assuming there were
9 funds to pay Dr. Ali why would you ask how is
10 this guy putting bread on the table?

11 A. I was just curious under what, how
12 it was that he was working in the capacity
13 that he was working.

14 Q. Did you have some reason to believe
15 that he was working as a volunteer rather
16 than as a paid faculty member?

17 A. Well, he's over in basic science
18 building with Dr. Sharma and I was, again,
19 just curious why he was doing what he was
20 doing.

21 Q. When you learned that Dr. Ali was
22 working unfunded as a volunteer did you have
23 any discussions with either Dr. Ali or Dr.
24 Sharma about that arrangement?

25 A. Yes, and Dr. Sharma felt that we

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2 might favorably present him to the group that
3 chooses residents in a favorable manner.

4 Q. And one of those people who decides
5 who would be become residents would be
6 yourself, correct?

7 A. Yes, I'm part of the committee that
8 chooses residents.

9 Q. Okay. Did you or Dr. Sharma give
10 Dr. Ali assurances that if he completed his
11 responsibilities to help develop the research
12 program he would be rewarded in the end of
13 some period by a residency ophthalmology?

14 A. I don't think we ever used the word
15 assurances guarantee. I think we used the
16 words he would be presented favorably and
17 have the best chance possible of becoming a
18 resident.

19 Q. Are those the words you used, the
20 best chance possible?

21 A. Or similar words.

22 Q. Okay. And what did you understand
23 that to mean?

24 A. Ophthalmology residency is a very
25 competitive position and because of Dr.

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2 Amro's poor step one scores he wouldn't pass
3 the first screening evaluations for becoming
4 an interviewee. So, because of Dr. Sharma's
5 position and mine we bypassed the first
6 screening process and gave him access to the
7 interview process.

8 Q. Okay. The process that your
9 speaking about is that the San Francisco
10 match?

11 A. Yes.

12 Q. And did Dr. Ali go through the
13 San Francisco match process?

14 A. Yes.

15 Q. And did the committee select Dr.
16 Ali in the match process?

17 A. He was picked to go through the
18 interview process. We go from about 300 to
19 400 applicants for three positions and we cut
20 the applicant pool to about 50 for
21 interviews. We got him through, Dr. Sharma,
22 and I got him through that first selection
23 process to be one of the 50 or so
24 interviewees.

25 Q. And was he successful in that match

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process?

A. No.

Q. Why not?

A. The people who interviewed him felt that he was not a strong candidate compared to the others who were being interviewed.

Q. Who were the interviewers?

A. I believe at this time it would be people like Dr. Wong, myself, Dr. Dr. Zaidman, Dr. Sharma, Dr. Juechter. And also the first candidate was also interviewed informally by a group of residents. And their evaluation is included in the process for selection.

Q. Do you recall telling Dr. Ali that you couldn't rank him highly because of a resident by the name of Eric Rosenberg had said things that made you rank Dr. Ali lower?

A. In the process of ranking the applicants to put them on a final rank list that is submitted to the match we evaluate all of the residents at the end of each interview day and then we ask a representatives of the residents,

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pre-selected representative to bring in their list of who they would like and how they rank the applicant pool. And then we match what we feel are the best applicant or putting them on the rank list and we compare our list to the resident list Dr. Rosenberg was acting as a representative of the residents rather than as an individual. And his statement comes as a summary of the resident judgment of their interviews with all of the applicants.

Q. And what did Dr. Rosenberg say to you in connection with his or the groups, group of residents opinion of Dr. Ali?

A. That Dr. Ali would not work smoothly with the group of residents compared to the other people who are in the applicant pool.

Q. Did he use the word "smoothly"?

A. To that effect. That we are interested in picking residents who are going to be functioning in a team to take care of complicated patients involving handoffs and late morning call, variety of other stressful

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2 environments which require all of the
3 residents to work very comfortably with each
4 other without any possibility of emotions or
5 feelings about each other who interfere with
6 patients safety and patient care.

7 Q. Did Dr. Rosenberg give you any kind
8 of specific examples for his saying to the
9 effect that Dr. Ali would not smoothly work
10 in a team of residents?

11 A. It was pointed out, I believe, by
12 Dr. Rosenberg that Dr. Ali had been many,
13 many years out from his PGY1 internship year
14 at the time of his application.

15 Q. Well, the committee itself or you
16 yourself knew that even before Dr. Ali joined
17 the medical college, correct?

18 A. Yes, if you review his c.v. and
19 again what we tried to do is even with issues
20 with that aspect of his training that he had
21 been many years out from his internship and
22 he had low step 1 and step 2 scores, I would
23 still give him a good shot at becoming a
24 resident by bringing him to the full
25 committees approval process.

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2 Q. Who are the members of the
3 committee at that period selecting the
4 residents?

5 A. That would be the list I think I
6 provided Dr. Wong, myself, Dr. Sharma, Dr.
7 Juechter, Dr. Zaidman.

8 Q. And you were at that time the
9 program, the residency program director,
10 correct?

11 A. Correct. My signature is on the
12 rank list that we submit to the computer
13 system at SF match to provide this residents.

14 Q. Is that document in the system at
15 the medical college?

16 A. It's archived at SF match.

17 Q. Doesn't the medical school keep a
18 copy of that?

19 A. No. It's -- maybe they do. I
20 think Regina may have a copy of that in Dr.
21 McCarrick's office.

22 Q. Okay. I'm going to call.

23 A. They have to go through SF match
24 through archives.

25 MR. SADOWSKI: I will ask for a

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2 copy of that ranking list.

3 Q. And, Dr. Wandel, what is the title
4 of that document?

5 A. Match list for SF match 2016.

6 MR. MILLUS: If I have it, I asked
7 and asked, we checked and checked. I
8 will do whatever is necessary. I would
9 love to produce that list, so everything
10 in my power.

11 MR. SADOWSKI: Okay, great.

12 Q. When you learned that Dr. Ali was,
13 his position was unfunded did you and Dr.
14 Sharma and Dr. Ali in any form discuss how
15 ultimately Dr. Ali would be rewarded for his
16 work?

17 A. Your implication is that the reward
18 would be some guarantee for a resident
19 position. But neither Dr. Sharma nor myself
20 were in any position to tell Dr. Ali that all
21 we could do was put him in the most favorable
22 position to be reviewed by the selection
23 committee. And I was frankly surprised he
24 was willing to come from NYU where he did
25 have a salary I believe to volunteer.

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2 Q. Well, I think that's precisely the
3 point that it would not be reasonable for
4 someone to work, someone with Dr. Ali's
5 credentials to work somewhere for free for a
6 number of years without being given some
7 consideration that he could rely on?

8 A. Yes, I agree.

9 Q. Okay.

10 A. But we never could do that.
11 Neither Dr. Sharma nor myself are in any
12 position to guarantee such a position and all
13 we can use are words like we will try, we
14 will provide you access, we will do the best
15 we can.

16 Q. Other than through the
17 San Francisco match are positions obtained in
18 the residency program outside of the match?

19 A. Yes, it's called that off match.

20 Q. In fact Dr. Rosenberg entered the
21 program off match?

22 A. Yes.

23 Q. And a doctor by the name of --

24 A. Wait, Dr. Rosenberg he did go
25 through the process. He was formerly

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2 interviewed in the same fashion that any
3 candidate is interviewed. So he was never
4 guaranteed a position when he worked for his
5 year with Dr. Sharma. The language used by
6 Dr. Rosenberg was identical to the language
7 used with Dr. Amro. And Dr. Rosenberg
8 expressed concern to me more than once
9 without a guarantee that he was nervous that
10 he would be left without any job at the end
11 of his working stay with Dr. Sharma.

12 Q. Ultimately Dr. Rosenberg did
13 acquire a residency position in
14 ophthalmology, correct?

15 A. Yes. But he went through the
16 process I described earlier.

17 Q. Yes, but he was not successful in
18 the San Francisco match. He received his
19 residency position off match?

20 A. Yes.

21 Q. Also there was a Dr. Daniel, I
22 don't know the last name, but he also
23 received a resident, Offer?

24 A. Daniel Offer?

25 Q. Yes.

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2 A. My belief is that he was through
3 the match.

4 Q. Okay. Do you know for sure one way
5 or the other?

6 A. The lists are archived so they
7 could be reviewed. All of the lists and the
8 resident positions that were offered are
9 archived at SF match. At least that's my
10 understanding. I've had access to that in
11 the past.

12 Q. Is there a list of residents who
13 were selected for the residency program off
14 match?

15 A. No, but they are a few in number.

16 Q. Let's go through. Dr. Al Sawicki
17 he entered the residency program off match,
18 correct?

19 A. That's correct, yes.

20 Q. Did you interview Dr. Al Sawicki
21 before he was selected for the residency
22 program?

23 A. Yes.

24 Q. How?

25 A. Skype.

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2 Q. Did Dr. Sharma interview him?

3 A. At that point I don't think Dr.
4 Sharma was on the committee.

5 Q. Did the other committee members
6 interview Dr. Al Sawicki by Skype?

7 A. Skype.

8 Q. All of them?

9 A. I don't remember exactly who
10 interviewed him by that mode. So, I think
11 Dr. Hutchinson might actually know in more
12 detail who actually interviewed him.

13 Q. And the medical college or
14 Westchester Medical Center obtained a Visa
15 for Dr. Al Sawicki?

16 A. Obtained a what?

17 Q. A Visa?

18 A. Yes.

19 Q. A resident by the name of Doss?

20 A. There are Doss, D-O-S-S.

21 Q. Two Doss's. A male and female,
22 right?

23 A. Brother and sister.

24 Q. And they both became residents in
25 ophthalmology?

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2 A. Yes. Yes.

3 Q. Were either of their positions off
4 match?

5 A. I think Lauren does, may have been
6 off Match. I can't recollect exactly. You
7 may have more information.

8 Q. Is that the male or the female?

9 A. That would be the girl, the woman.
10 Lauren is the woman, Linden is the male.

11 Q. Okay. Does family make financial
12 donations to your department?

13 A. After --

14 MR. MILLUS: Note my objection to
15 form. You may answer. Go ahead.

16 A. After Lauren was selected it became
17 obvious that we didn't have proper equipment
18 for examination purposes and Lauren was a
19 little bit annoyed that she didn't have
20 correct equipment so she asked her father for
21 her and the other residents, some of the
22 necessary equipment, but I think it was about
23 couple of thousand dollars.

24 Q. In the range of five thousand?

25 A. No more than that. And it wasn't a

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2 money donation, it was equipment.

3 Q. Who purchased the equipment?

4 A. I'm not sure actually who purchased
5 it because it showed up in a box. Everybody
6 dived in and took the equipment to work with
7 immediately. It could have been her money,
8 it could have been his money. It wasn't
9 clear exactly who paid for it, but it was the
10 small kinds of pieces of equipment that
11 easily get stolen within an unsecure clinic.
12 And, you know, we were having troubles buying
13 it through normal route. So I think she just
14 decided to get it. Asked her father to get
15 it. She has certainly enough money in other
16 own account to take care of it.

17 Q. Dr. Ali? Did you come to
18 conclusions about his character.

19 A. Dr. Ali is a very fine gentleman,
20 very industrious, very fine trades.

21 Q. Would you say he's honest and has a
22 strong code of ethics?

23 A. Yes.

24 Q. That he met all of the expectations
25 of him in connection with the research that

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2 he was to do?

3 A. Yes.

4 Q. Did you see him interact with
5 others well?

6 A. Yes.

7 Q. Did you ever find an instance when
8 he had issues interacting with others?

9 A. He reported to me that when he was
10 allowed to watch patients being evaluated
11 that he had an episode with Dr. Rosenberg
12 where a particular patient evaluation or
13 management was questioned by Dr. Rosenberg.
14 I considered it a relatively minor episode in
15 terms of my overall view of Dr. Amro.

16 Q. I'm not sure I understand the
17 incident. Was it that Dr. Ali disagreed with
18 something Dr. Rosenberg was doing or
19 determining?

20 A. It was the other way around, I
21 believe. Dr. Rosenberg thought Dr. Amro was
22 not taking a correct approach with a
23 discussion of management of a patient. Dr.
24 Amro was not allowed to touch any patients
25 because of his status, but was certainly

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2 allowed to discuss patient care. And in an
3 episode or instance where he was observing in
4 a clinic there was a discussion where Dr.
5 Rosenberg felt that Dr. Amro's approach to a
6 patient was not as good as it could be.

7 Q. Okay. And who brought that to your
8 attention?

9 A. I think Dr. Amro.

10 Q. Okay. So, let's go to another
11 exhibit. I'm showing you, Dr. Wandel, what
12 is marked Sharma Exhibit 3, which is an
13 e-mail dated July 10, 2016, to you and Dr.
14 Sharma. The subject is request for clinical
15 privileges. Going down it says: I'm
16 submitting these documents to support my
17 request for obtaining clinical privileges at
18 the Department of Ophthalmology. Did you
19 receive this e-mail from Dr. Ali?

20 A. Yes.

21 Q. And did you sign anything, advance
22 Dr. Ali acquiring clinical privileges at the
23 Department of Ophthalmology?

24 A. I had no objection to him observing
25 in clinic according to the requirements of

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2 the hospital.

3 Q. I understand you had no objection,
4 but did you do anything to advance getting
5 Dr. Ali a license so that he could engage in
6 clinical privileges in the Department of
7 Ophthalmology?

8 A. You mean a New York -- you need a
9 New York State medical license.

10 Q. Correct?

11 A. I would have my -- my goal would be
12 to help him as much as I could. I'm not sure
13 exactly what I might have done and advance
14 that. My understanding is that he in order
15 to practice medicine independently on his own
16 license would have to have one more year of
17 training in an ACGME approved program in
18 medicine in order to practice independently.

19 Q. Did you submit any letters
20 requesting that Dr. Ali acquire the license
21 needed for clinical privileges at the
22 Department of Ophthalmology?

23 A. I would have no -- I would try to
24 be as helpful as possible so whatever letters
25 might be needed, I'm sure I would have

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2 submitted them. I have no exact recollection
3 but my goal would be to be as helpful as I
4 possibly could within my abilities and title.

5 MR. MILLUS: Before your next
6 question can we take a five-minute
7 break.

8 (Whereupon, a short recess was
9 taken.)

10 Q. I'm going to show you another
11 exhibit. I'm showing you, Dr. Wandel, what
12 has been marked as Exhibit Ali 1 entitled New
13 York Medical College GME policy USMLE step 3.
14 USMLE step 3, that is the step 3 licensing
15 exam that allows a physician to practice
16 medicine in New York State?

17 A. Yes.

18 Q. And I'm showing you now New York
19 Medical College GME policy which states: All
20 residents and fellows in NYMC sponsored GME
21 programs must pass step 3 of the USMLE by the
22 completion of the second year of their NYMC
23 program in which they are enrolled.
24 According to this policy one need not have
25 passed step 3 prior to entering the residency

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2 program, but rather must complete step 3 by
3 the completion of the second year of the
4 residency program, correct?

5 A. Yes.

6 Q. And there's no exceptions in this
7 policy to differentiate between American
8 medical school graduates and international
9 medical school graduates, correct?

10 A. Correct.

11 Q. Showing you, Dr. Wandel, the
12 Westchester Medical Center Resident/Fellow
13 Agreement Terms of Appointment Policies and
14 Procedures 2016/2017. Are you familiar with
15 this document?

16 A. Not enough so that I know it by
17 heart. I probably have rarely looked at it.

18 Q. Okay. Let's take a look at page 40
19 of the document. Page 40 of the resident
20 fellow agreement states: It is the policy of
21 the Westchester Medical Center that every WMC
22 based categorical residency training program
23 and WMC require trainees to pass step 3 of
24 the USMLE or COMLEX examination sequence
25 prior to the end of their second year of

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2 training. And this statement in the contract
3 comports with a New York Medical College
4 policy on USMLE step 3, correct?

5 A. Yes.

6 Q. So, again, this policy statement
7 and the contract does not differentiate
8 between international medical school
9 graduates and American medical school
10 graduates, correct?

11 A. Correct.

12 (Wandel Exhibit 3, document, marked
13 for identification, as of this date.)

14 Q. Okay. Showing you exhibit marked
15 for identification as Wandel 3 addressed to
16 Chairperson Ray Amro Ali, December 10, 2016.
17 Is that your signature at the end of the
18 document?

19 A. Yes.

20 Q. What is this document?

21 A. It's a letter of recommendation.

22 Q. Okay. And as you state here Dr.
23 Ali was a clinical instructor?

24 A. Yes.

25 Q. Okay. And you say when you review

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2 his c.v. his fellowships, retina
3 ophthalmology you place him on a level where
4 he can lecture on these subspecialties.
5 Indeed he volunteered and has started a
6 series of lectures that will review the basic
7 science volume 9, ocular inflammation, in our
8 basic science course. He has ten peer
9 reviewed publications and a similar number of
10 posters and presentations. Dr. Ali is a true
11 team player who excels in making his
12 co-workers feel that they are working for a
13 common goal. He has kindness and respect for
14 others. Was this subject submitted in
15 connection with Dr. Ali's application to
16 become an ophthalmology resident?

17 A. Yes.

18 (Wandel Exhibit 7, letter, marked
19 for identification, as of this date.)

20 Q. I am now showing you what has been
21 marked for identification as Exhibit Wandel
22 7. And this is a letter to Dr. Ali dated
23 October 17, 2016. And that bears a form of
24 your signature, correct?

25 A. I don't see it on screen.

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2 Q. Showing you what has been marked as
3 Wandel Exhibit 7 for identification, it's a
4 letter to Dr. Ali dated October 17, 2016.
5 And it bears a form of your signature,
6 correct?

7 A. Yes.

8 Q. This you tell Dr. Ali I had the
9 pleasure of reviewing your application and
10 would like to invite you to interview with
11 the ophthalmology residency training program.
12 Our department will be conducting interviews
13 on Tuesday, December 6, 2016. And then Dr.
14 Ali selected I will represent to you to
15 interview on the afternoon of December 6,
16 2016. At the end of that interview day did
17 you collect the comments including the
18 comments from the interviewers including the
19 comments from Dr. Rosenberg?

20 A. Yes. Past the process.

21 Q. And that happens all on that one
22 day October 6th?

23 A. Yes.

24 Q. Okay. Thank you.

25 Now, showing you what is marked

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Wandel Exhibit 4.

(Wandel 4, e-mail, marked for
identification, as of this date.)

Q. An e-mail from Frederick Bierman.
Who is Frederick Bierman?

A. He is in charge of all GME at the
Westchester Medical Center and is my
immediate boss, supervisor, the person I
report to.

Q. Okay. And he writes an e-mail to
you on December 21, 2016, to Wandel Tad and
here it's been tracked and delivered and the
e-mail to you from Dr. Bierman says: I could
not locate the applicant step 3 USMLE report.
Do you have a copy? I also noted that his
internship was in general surgery. Was he a
preliminary or categorical year resident?
Did you receive this e-mail?

A. Yes.

Q. Okay. Why did Dr. Bierman need Dr.
Ali's step 3 USMLE report if it's not
required of the contractor, the policy for
resident to begin their residency.

A. Dr. Bierman I'm not sure where he

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2 became aware of our interest in Dr. Amro as a
3 possible resident in ophthalmology but in
4 doing his due diligence Dr. Bierman noted
5 Dr. Amro's internship PGY1 year was I think
6 in 2002 or '3, but many years ago. Dr.
7 Bierman as my overseers can was concerned
8 about patient safety and patient care in
9 relation to the long length of time between
10 Dr. Bierman between Dr. Amro having his
11 clinical experience and his application to
12 the resident training program as a marker of
13 competence step 3 acting as something of a
14 quantitative tool to assess for clinical
15 competence and was wondering if he had indeed
16 taken that.

17 Q. This e-mail from Dr. Bierman says
18 nothing about patient safety, correct?

19 A. No, not directly.

20 Q. In this e-mail you respond to Dr.
21 Bierman the next day December 22nd, subject
22 Amro Ali, he will take step 3 on 12/28/2016
23 internship, general surgery, PGY1, 2002,
24 2003?

25 A. I don't see that on screen.

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2 Q. Did I represent that correctly?

3 A. I believe so. Why don't you just
4 scan down and let me take a look.

5 Q. There appears to be nothing more on
6 the page except the Bates number NYM?

7 A. What were you saying it contained?

8 Q. Yes, I made representations that
9 it contained an e-mail from you to Dr.
10 Bierman about Dr. Ali, he will take step 3 on
11 12/28/2016?

12 A. Yes, and I responded to him by
13 saying when Dr. Amro's internship was.

14 MR. MILLUS: I thought was more, I
15 didn't realize it was just one line.

16 Q. Around this time was there a
17 resident who left the program by the name of
18 Star White?

19 A. Yes, I do remember her.

20 Q. When she left the program there
21 became a vacancy that opened up?

22 A. Yes.

23 Q. Did you consider Dr. Ali for that
24 vacancy?

25 A. Yes.

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2 Q. And that vacancy would be outside
3 the match?

4 A. Yes.

5 Q. Had there been before the
6 unexpected opening when Star White left had
7 there been a plan to have Dr. Ali begin a
8 residency program on July 1, 2018?

9 A. Well, you can't begin a residency
10 training program unless you are accepted by
11 way of the SF match process or a process
12 similar to that?

13 Q. There's either the SF match or out
14 of match?

15 A. Yes.

16 Q. But in terms of actually starting
17 the program without going through an
18 acceptance process?

19 A. Correct, correct.

20 Q. But what I'm getting at, and let me
21 ask you this. There are two to three
22 residency programs of residents who start
23 each year in the program?

24 A. 3.

25 Q. And --

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2 A. Between 2 and 3, yes.

3 Q. Between 2 and 3. And it's possible
4 for the school to only have one person
5 selected through the match?

6 A. It rarely happens, but it can.

7 Q. And when Dr. Al Sawicki entered the
8 program that was outside of the match,
9 correct?

10 A. Correct.

11 Q. So that position was created for
12 him?

13 A. No, let me see. I am not sure what
14 that position was opened for created for as
15 you say or was a spot that was unfilled. I'm
16 not sure on that exact point.

17 Q. He could have entered a spot that
18 was unfilled and that's how his position was
19 created?

20 A. Yes.

21 Q. Showing you now what has been
22 marked Wandel 6 for identification.

23 (Wandel 6, e-mails, marked for
24 identification, as of this date.)

25 Q. As a chain of e-mails. Here it

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2 starts off with an e-mail from Amro Ali to
3 you. So, here Dr. Amro is telling you in
4 this e-mail: Due to technical problems on
5 the first day of U.S. step 3 exam Prometrics
6 Center have to reschedule me and other
7 candidates me for other dates. I try to get
8 the first date to comply with department
9 expectations, no exams will be administered
10 from January 1st through 15th. I have been
11 rescheduled by the center for January 23rd
12 and 24th. As the earliest possible date. I
13 hope this unexpected delay of 20 days would
14 not interfere with my chances. Then we go
15 up. You respond, Hi, Ali, take step 3 on the
16 earliest date one 23 - 24 will have to do.
17 There is a high likelihood that you might
18 start as soon as we learn that you passed
19 step 3 not 7/1/2018. Is it fair to say that
20 if Dr. Ali passed step 3 he would start or
21 fill the vacancy in the residency program
22 created by Star White's leaving?

23 A. You have to look at the words high
24 likelihood. So, I'm never saying that it's a
25 guarantee. I'm saying there's a high

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2 likelihood.

3 Q. And then you put at the end of that
4 sentence, you put a qualifier not 7/1/2018?

5 A. Yes, that would be off match.

6 Q. Yes. So, he otherwise could have
7 gotten a residency position off match on July
8 1, 2018?

9 A. High likelihood.

10 Q. That's 7/1/2018 date that was also
11 a high likelihood in your words?

12 A. I would believe the high likelihood
13 refers to immediate and July 1st.

14 Q. Okay. Did Dr. Ali deliver to Dr.
15 Sharma and the Department of Ophthalmology
16 his commitment to the department to advance
17 publication and research?

18 A. Yes.

19 Q. Prior to the opening of the vacancy
20 created by Star Whites leaving, did anyone
21 express to you that Westchester Medical
22 Center was not interested in Dr. Ali for a
23 residency position because of board scores?

24 A. I'm not sure exactly in what time
25 frame we are talking about, but when I

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2 discussed Dr. Amro's candidacy for the
3 position with my superior Dr. Bierman his
4 concern was related to the length of time
5 that has passed between Dr. Amro's internship
6 in 2002 and when he would be assuming duties.
7 So, his capabilities in terms of day-to-day
8 patient care, patient safety were brought to
9 my attention, I had been focused primarily on
10 Dr. Amro's research capability. And I didn't
11 appreciate the perspective that Dr. Bierman
12 had for maintaining the quality and care in
13 the hospital in his position as the head of
14 GME.

15 Q. Was Dr. Bierman's concern about the
16 time period between Dr. Ali's surgical
17 residency and application for residency
18 position had anything to do with Dr. Ali's
19 age?

20 A. Not as a specific factor, no.

21 Q. Well, generally the length of time
22 2002 to 2003 and now applying for a position
23 in 2016 that number of years did that also
24 reflect on Dr. Ali's age?

25 A. In general. SF match maintain some

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2 records on applications, gaps in training.

3 And a gap in training more than a couple of
4 years between the PGY1 year and the
5 initiation in theory of a residency training
6 program in the PGY2 year if that's more than
7 two or three years you are concerned about
8 the capability of the individual to be able
9 to deal with complex medical issues that are
10 part of management in the residency training
11 program.

12 Q. Well, certainly if Dr. Ali was
13 hired everyone was well aware from his
14 package of credentials when his surgical
15 training had occurred in 2002 and 2003; isn't
16 that correct?

17 A. Dr. Amro came in at Dr. Sharma's
18 behest to work, develop a resident, a
19 research program. He wasn't exactly hired,
20 he volunteered his time. So, that, you know,
21 it's a we were not focused on his clinical
22 capabilities as much as his research
23 capabilities. He was suitable certainly to
24 work on research capacity, but Dr. Bierman
25 did make us aware he might have issues in

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2 terms of clinical capability.

3 Q. Dr. Ali had had a fellowship in
4 Uveitis at New York Eye and Ear Infirmary,
5 correct?

6 A. Yes.

7 Q. And in connection with that he saw
8 many patients in that clinic, correct?

9 A. I'm sure.

10 Q. And he had other fellowships, Casey
11 Eye Institute, The Ford Institution, where he
12 had clinical responsibility, correct?

13 A. Yes. I am not sure though in that
14 capacity how much he was actually involved in
15 writing orders, discussing issues with
16 patients, or management of co, what are
17 called, morbities, high blood pressure, heart
18 disease and so forth.

19 Q. Did anyone ever tell you that Dr.
20 Ali lacked clinical skills?

21 A. No, not specifically.

22 Q. Dr. Wandel, do you have any
23 recollection whatsoever of being on a
24 telephone call or in person that WMC would
25 reward Dr. Ali a residency position in

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2 exchange for his contribution and research
3 work for the department?

4 A. No. In fact everything I can
5 remember in all context of conversation had
6 to do with being very careful about saying we
7 will try as hard as we can as opposed to
8 guaranteeing him a position.

9 MR. SADOWSKI: Let break for five
10 minutes.

11 (Whereupon, a short recess was
12 taken.)

13 Q. I'm going to go back to an earlier
14 document. I've taken us back to Wandel 4 for
15 identification. This is Mr. Bierman's e-mail
16 to you asking for a copy of Dr. Ali's step 3
17 report. Nowhere in this e-mail does Dr.
18 Bierman say anything about patient safety or
19 the time delay between Dr. Ali's preliminary
20 or year of resident; is that correct?

21 A. Correct.

22 Q. And here we are gone back to Wandel
23 Exhibit 5 for identification. It's in this
24 e-mail that you tell Dr. Bierman his -- the
25 internship general surgery PTY1 was 2002 to

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2 2003, correct?

3 A. Yes.

4 Q. Showing you what is marked
5 Hutchinson Exhibit 2 for identification which
6 is an e-mail from Dr. Ali to Dr. Hutchinson
7 on which you are CC'd as well as Dr. Sharma.
8 I notice on here that your subspecialty is
9 glaucoma and that Dr. Ali had research funded
10 by the glaucoma foundation for work in ocular
11 exfoliation glaucoma. Were you aware of that
12 research?

13 A. Actually I wasn't. I know they
14 emphasize on that disease. I didn't realize
15 Dr. Amro ever received money for it.

16 Q. How common is it for individuals to
17 receive money from the glaucoma foundation?

18 A. I don't know the numbers on
19 applications versus the money receipt.

20 Q. In the paragraph commencing, I got
21 my formal interview Dr. Ali writes, I got my
22 formal interview in the Department of
23 Ophthalmology in November 2016 and I have
24 been offered the position as PGY2 in April
25 2017 based on primary offer and acceptance of

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2 this position. I completed all of the
3 prerequisites at Metropolitan Hospital
4 including medical and other courses waiting
5 for step 3 results. I also started to shadow
6 the residents to get familiar with the record
7 system GME office. It was at your direction
8 that Dr. Ali commence work at Metropolitan
9 Hospital, correct?

10 A. I suggested that it would be
11 helpful for him to shadow the residents, yes.

12 Q. Wasn't that a direction of yours?

13 A. Yes, but it was not an order.

14 Q. Did you suggest that in advancement
15 of him receiving a residency position?

16 A. Yes, I thought, again, I was trying
17 to be as helpful as I could to advance his
18 becoming a resident within the context of his
19 credentials that he provide in his c.v. and
20 to the extent I can help I'm glad to, but,
21 again, I am not in the position to guarantee
22 a post since there is a process that an
23 applicant has to go through that's monitored
24 by the chair of my department and by the head
25 of the GME office and their overview is a

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2 guarantee that whoever comes into the program
3 is a qualified person who has met their
4 standards for patient care and safety.

5 Q. In June 2018 did you have a meeting
6 with Dr. Hutchinson, yourself, Dr. Bierman
7 and Dr. Sharma regarding Dr. Ali?

8 A. Yes.

9 Q. And was Michelle Hodges at that
10 meeting?

11 A. I believe she was, if she is
12 recorded as being present I'm sure she was
13 there.

14 Q. Okay. What is her role at
15 meetings?

16 A. She is the executive secretary for
17 Dr. Hutchinson who was the chair of the
18 Department of Ophthalmology and she was
19 probably there to provide notes of the
20 meeting, minutes of the meeting.

21 Q. Did you see her taking notes for
22 minutes of the meeting?

23 A. She was probably behind me to
24 decide, so I probably didn't see her
25 specifically or looking for her.

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2 Q. Would she have any reason to be at
3 the meeting other than to be the note taker?

4 A. I am not sure since she was
5 probably there at Dr. Hutchinson's behest.
6 So, I am not aware of why Dr. Hutchinson
7 might want her to be there.

8 Q. Showing you now an exhibit that's
9 been marked at the bottom as Sharma 17,
10 Wandel 11. And it is an e-mail from Dr. Ali
11 to you cc Dr. Sharma. It says Dr. Wandel
12 thanks for your time, I was very disappointed
13 with hiring another candidate without
14 offering me a fair chance to present my work
15 and c.v. which I achieved over years of
16 practice and research in USA, especially I
17 have been promised the chance before and I
18 have been accepted by the department and CME
19 office. There is another candidate, is that
20 a reference to Dr. Al Sawicki?

21 A. Yes.

22 Q. It goes on to say I worked as
23 volunteer for three years in addition to four
24 clinical fellowships on uveitis and 20
25 publications compared to a candidate who just

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2 practiced in USA for only one year of surgery
3 at Sinai Hospital. And had no public
4 location records. Zero publication,
5 especially if we are both IMG. And by IMG I
6 take that to mean International Medical
7 School Graduate?

8 A. Yes.

9 Q. Dr. Al Sawicki did he pass step 3
10 before entering the residency program?

11 A. Yes.

12 Q. Is it correct that Dr. Al Sawicki
13 had no publications?

14 A. If he did it were minor.

15 Q. Is it also true that he had no
16 grants?

17 A. Yes.

18 Q. In fact it would be impossible for
19 him as not being a faculty member to have a
20 grant?

21 A. Correct.

22 Q. And especially something like an
23 NIH grant?

24 A. Yes.

25 Q. And do you know how many

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2 fellowships did Al Sawicki have?

3 A. None.

4 Q. Is it fair to say, Dr. Wandel, that
5 Dr. Ali's credentials exceed Dr. Al Sawicki?

6 A. No.

7 Q. Why not?

8 A. Dr. Al Sawicki did an internship at
9 a Johns Hopkins Hospital in Baltimore. His
10 step 1 score was 145 or I think his step 2
11 score was similar. So immediately presents
12 as a highly desirable resident candidate.

13 Q. What Johns Hopkins Hospital?

14 A. I would have to look at his c.v.

15 Q. Are you sure it was Johns Hopkins
16 in Baltimore?

17 A. It was affiliated, it's Hopkins
18 affiliated hospital.

19 Q. Right. It's not Johns Hopkins
20 Hospital, but a hospital affiliated with it?

21 A. Yes. And he had excellent
22 recommendation letters. And, you know, he
23 was a good match for the other residents.
24 They wanted him.

25 Q. How did the other residents meet

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2 him?

3 A. I believe through the same system I
4 did, through skype.

5 Q. Through a skype interview?

6 A. A cellphone meeting or I'm not sure
7 exactly how. I was isolated at that time and
8 asked only to participate in the phone call
9 interview. Other interviews were being
10 arranged by our chairperson Dr. Hutchinson.

11 Q. When you say you were isolated,
12 what does that mean?

13 A. I didn't make the arrangements for
14 the interview.

15 Q. So, how do you know who he was
16 interviewed by?

17 A. I believe I was told who the list
18 was of the interviewers. I can't remember at
19 the moment specifically who the other people
20 were.

21 Q. Well, who gave you that list?

22 A. Dr. Hutchinson.

23 Q. Okay.

24 A. He was the chairperson.

25 Q. Dr. Al Sawicki had worked with Dr.

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2 Hutchinson in Dolha Cutter, correct?

3 A. Correct.

4 Q. And Dr. Al Sawicki had gone to
5 medical school in Jordan, correct?

6 A. Yes.

7 Q. And except for the hospital somehow
8 affiliated with Johns Hopkins Dr. Al Sawicki
9 had done no other fellowships in the United
10 States?

11 A. No, but they are not necessary for
12 being accepted as a resident.

13 Q. Dr. Wandel, I'm showing you what is
14 marked Wandel Exhibit 12 and Hutchinson 1.

15 (Wandel 12, document, marked for
16 identification, as of this date.)

17 Q. This is starts out in a chain, two
18 pages, they are Bates stamped NYMC WMC 183
19 and 184. The first e-mail is from Dr. Ali to
20 Dr. Hutchinson, subject, my future plans.
21 Dr. Ali writes, I am sorry, but I have to add
22 that I had a meeting with Dr. Wandel two
23 weeks ago and he confirmed that I was not
24 treated fairly and he promised to help to
25 create a position for me after he heard in

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2 details about the situation. He mentioned
3 also that he was not aware about any openings
4 which has been filled. He promised to talk
5 to you in this regard in helping out. I sent
6 him recap e-mail after the meeting thanking
7 for his promise to help, second promise. Dr.
8 Sharma aware of this conversation, as I
9 updated him after meeting and sent a memo as
10 well. Do you recall the meeting with Dr. Ali
11 two weeks before July 12th?

12 A. Can I see my response?

13 Q. Your response that same day to Mr.
14 Hutchinson says: I cannot meet with Amro
15 without a witness and suggest that he hold,
16 this holds for anyone meeting with him. I
17 suggest we need a letter signed by all of us
18 indicating that no promises of a residency
19 have been given him and suggest he look
20 elsewhere for employment.

21 A. I remember the meeting. I was
22 sitting in my office which has only one
23 entrance, which is in front of the office.
24 Dr. Amro came in the room unannounced and
25 immediately started to say something to the

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2 effect that he was going to give me one more
3 chance before he sued us and that I should
4 create a position for him for at least one
5 year and that if he had one year with us he
6 would not sue. So that he was very angry I
7 was getting a little nervous, I was thinking
8 about the fact that he was in the door and my
9 back was to the door without any exit. He
10 left and my reaction to what he wrote was
11 that he still felt that he was guaranteed a
12 position and that he wasn't aware of
13 something that should have happened about
14 three years ago where he had volunteered to
15 work with Dr. Sharma without a guarantee for
16 a residency position and refused to accept
17 the fact that he might not be able to get a
18 residency position. And he should have
19 looked for a job a year ago, two years ago
20 and left Dr. Sharma and gone on with his
21 life.

22 Q. Had you ever known Dr. Ali to be
23 anything other than honest?

24 A. Honesty in this perception.

25 MR. MILLUS: I have to note my

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2 objection to form. I had to get out of
3 mute. You may answer Doctor, please
4 continue.

5 A. Being honest and being aware of
6 your situation are two different things. I
7 have a lot of friends who don't understand
8 where they are and are still very honest. I
9 was in no position when he came in.

10 Q. Excuse me, Doctor, there's no
11 question pending.

12 I put on the screen Bierman 3. The
13 title is Meeting Minutes, date July 20, 2018,
14 time 12:00 noon, attendees Amro Ali, M.D.,
15 Frederick Bierman, Kelly Hutchinson, Thaddeus
16 Wandel and Michelle Hodge, note taker. Do
17 you recall this meeting, Mr. Wandel?

18 A. Yes, I didn't see the meeting
19 minutes, however. So this is new for me.

20 Q. Okay, fair enough.

21 A. Can you make it a little larger.

22 Q. Yes. And then we will scroll
23 through it so you have a chance to look at
24 it. How is that?

25 A. Much better.

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2 Q. So, I will scroll through it. Let
3 me know when you are finished. All right.
4 That second paragraph is his understanding of
5 how he was there. Some of it was her notes
6 that said he would be rewarded, that's his
7 language?

8 A. Yes. The requirement for step 3
9 which he states was an absolute had to do
10 more with Dr. Bierman's thought process of
11 maintaining a high level of patient care and
12 safety within the greater hospital
13 environment. And I think we had discussed
14 earlier in this meeting why Dr. Bierman felt
15 that the step 3 exam would be important for
16 Dr. Ali or Dr. Amro to take.

17 Q. We can certainly go back through
18 the entire document and, here, this is the
19 last page, if you want to review it. And I
20 will ask you please show me where in the
21 document Dr. Bierman says anything about
22 patient safety?

23 A. He doesn't. In this letter it's
24 not discussed. It's Dr. Amro, Dr. Michelle
25 Hodge was taking notes, so these were words

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2 that or contacts that Dr. Amro used in
3 describing where he was and why he was where
4 he was at that meeting.

5 Q. Let's focus on --

6 A. Dr. Bierman actually, you know,
7 discussed this in his own words rather than
8 my actually implying his words.

9 Q. Well, those words about patient
10 safety do not exist in this document, but
11 there is this.

12 A. That is Dr. Amro's statement.

13 Q. No, I beg to differ, Doctor.

14 A. Wait a minute. Dr. Bierman was at
15 the meeting, I'm sorry.

16 Q. Yes, these are meeting minutes and
17 Michelle Hodge took down the statement Dr.
18 Bierman countered that this is a requirement
19 for IMG, International Medical Graduates. Do
20 you doubt that Michelle Hodges was
21 incorrectly putting this down in her meeting
22 minutes?

23 A. Okay. If this is in meetings I
24 can't, you know, I can't say anything against
25 the meeting minutes.

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2 Q. Okay. Great. At the end of the
3 July 20th meeting what was the order of the
4 individuals leaving the room?

5 A. I can't remember specifically. I
6 think Dr. Amro left at first with Dr.
7 Bierman. I'm not sure though.

8 Q. If I told you Dr. Bierman left
9 first and then called for you and Dr.
10 Hutchinson to leave would that refresh your
11 recollection?

12 A. All right. The order of leaving
13 the meeting I have no specific recollection
14 if that's what happened, I have no objection.

15 Q. Do you recall Michelle Hodges
16 shaking Dr. Ali's hand at the end of the
17 meeting?

18 A. No. Imagine, hand shaking would be
19 appropriate.

20 Q. No one escorted Dr. Ali out of the
21 meeting, correct?

22 A. Not to my recollection.

23 Q. Do you know or recall anyone saying
24 that the requirement that international
25 medical graduates pass step 3 before

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2 beginning their residency as, quote,

3 Bierman's law, closed quote?

4 A. No, not offhand.

5 Q. Do you have a recollection of Dr.

6 Bierman saying to you that your

7 recommendation letter for Dr. Ali will put

8 you in trouble?

9 A. No.

10 Q. Did Dr. Bierman tell you that your

11 recommendation letter will put us in trouble?

12 A. No. I don't remember that

13 language.

14 Q. In the June 22nd meeting did you

15 hear Dr. Sharma suggest to Dr. Hutchinson

16 that Dr. Ali be given a trial period to test

17 his clinical skills?

18 A. Not specifically. I wouldn't be

19 surprised if he did, but that doesn't work.

20 Q. Why not?

21 A. It's not an -- it's not part of a

22 standard process.

23 Q. The position given to Al Sawicki

24 was that position advertised?

25 A. No, I don't think so.

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2 MR. SADOWSKI: Let's take ten
3 minutes and then I will probably be very
4 close to wrapping up.

5 (Whereupon, a short recess was
6 taken.)

7 Q. Dr. Wandel, when is the last time
8 you spoke to Dr. Sharma?

9 A. Actually been a while, a couple of
10 months.

11 Q. Two months?

12 A. At least, yes.

13 Q. Prior to todays deposition, other
14 than your counsel did you speak with anyone
15 about the deposition you would give today?

16 A. No.

17 Q. When is the last time you spoke to
18 Dr. Bierman?

19 A. Since I retired that would be
20 months ago too. Probably June or something.

21 Q. And when is the last time you spoke
22 to Dr. Hutchinson?

23 A. I see her almost on a daily basis
24 on other resident issues administered and
25 administrative issues.

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2 Q. Did you have an opportunity to
3 discuss today's deposition with her?

4 A. No.

5 Q. Did she tell you that she had been
6 deposed?

7 A. No. I still don't know if she was.

8 Q. Do you know if other individuals in
9 this case have been deposed?

10 A. I believe my attorney told me
11 that --

12 Q. No, no, no. Don't tell me anything
13 about your conversations with your attorney.
14 Okay?

15 A. No.

16 Q. I think you said on July 2nd Dr.
17 Ali appeared in your office?

18 A. When?

19 Q. Sometime in July Dr. Ali appeared
20 in your office?

21 A. In the context of that e-mail that
22 I had. The don't have -- we need a witness
23 for conversations?

24 Q. Yes.

25 A. Okay.

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2 Q. And that meeting you said Dr. Ali
3 came in unannounced?

4 A. Yes.

5 MR. SADOWSKI: Okay. Thank you. I
6 have no further questions.

7 MR. MILLUS: I have one question.

8 EXAMINATION BY

9 MR. MILLUS:

10 Q. Doctor, do you recall counsel was
11 asking you questions regarding Dr. Ali coming
12 into your office? Do you recall that?

13 A. Vaguely.

14 Q. Specifically insofar as you wrote
15 an e-mail that he showed you that said no,
16 someone should be with him alone?

17 A. Yes, correct.

18 Q. Do you recall?

19 A. That we are talking about that
20 meeting.

21 Q. What you started to say I was in no
22 position when he came in and then counsel
23 interrupted you absolutely appropriately
24 saying there was no question before you; do
25 you recall that?

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2 A. I can't hear you very well.

3 Q. You said I was in no position when
4 he came in, that's what you were starting to
5 say and counsel appropriately interrupted you
6 saying there was no question before you; do
7 you recall that?

8 A. Okay, I believe you.

9 Q. I would like you to finish the
10 thought you were saying, I was in no position
11 when he, meaning Dr. Ali, came in and then
12 you stopped. I would like you to finish your
13 thought on that, if you can.

14 A. All right. I was -- during all of
15 this time I have no position to guarantee or
16 to place Ali by myself in any resident
17 position and for him to suggest that I could
18 arrange for him a one-year position to get
19 him started training is irrational.

20 Q. Let me ask you this: You were
21 program director at the time?

22 A. Yes.

23 Q. Did you have the power to overrule
24 Kelly Hutchinson on a decision she made in
25 regard to residency status of someone?

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2 A. No, she's my boss. I serve at her
3 discretion. I have no contract.

4 Q. Who was your employer at the time
5 in 2018, 2017, 2016, who was your employer?

6 A. I think at that time WM, the
7 Westchester Medical Center was actually my
8 employer. And then actually ran, sponsored
9 the resident, the program, ophthalmology
10 program. After 2016 New York Medical College
11 took over the program.

12 Q. So, 2016, after 2016, 2017, 2018
13 your employer was whom?

14 A. I believe the Westchester Medical
15 Center.

16 Q. You said a moment ago after '16
17 NYMC took it over?

18 A. Took over the sponsorship.

19 Q. Who remained your employer in 2017,
20 2018?

21 A. New York Medical College.

22 Q. Okay. Now, did Dr. Sharma have the
23 power to authorize or give someone a
24 residency if he wanted to?

25 A. No way.

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2 Q. Why is it no way? You said that
3 very emphatically, why do you say no way?

4 A. His position in the program was not
5 a clinical one.

6 Q. What does that mean?

7 A. He is a Ph.D. full professor of
8 ophthalmology and cell biology, but he has no
9 authorization to do anything more than write
10 a good letter of recommendation.

11 Q. Let me ask you: Who was Dr.
12 Sharma, if you know, in 2017 and 2018?

13 A. Who employed him?

14 Q. Who was his employer, yes?

15 A. New York Medical College.

16 Q. How about Dr. Bierman, who was his
17 employer, if you know, in 2017 and '18?

18 A. I believe the Westchester Medical
19 Center.

20 MR. MILLUS: I have no further
21 questions. Thank you.

22 MR. SADOWSKI: I have a couple of
23 follow-up.

24 EXAMINATION BY

25 MR. SADOWSKI:

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2 Q. Why did New York Medical College
3 take over the sponsorship of the
4 ophthalmology residency program in 2016?

5 A. I am not sure of the environment
6 which that happened, but New York Medical
7 College took over OB-GYN and ophthalmology of
8 Westchester Medical Center continued
9 sponsorship of all other resident training
10 programs.

11 Q. How did New York Medical College
12 taking over the sponsorship of the
13 ophthalmology program change Dr. Bierman's
14 role over the residency program?

15 MR. MILLUS: Objection to form.

16 You may answer.

17 A. Technically I believe Dr. Richard
18 McCarrick who is the CIO for all medical
19 hospital college affiliations would have
20 taken Dr. Bierman's position. But Dr.
21 Bierman has worked with me and with the
22 program or provides internship for me that we
23 work primarily with Dr. Bierman.

24 Q. Who is, again, the director who
25 took over the ophthalmology residency for?

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2 A. McCarrick is the designated
3 institutional official or DIO. And he's in
4 charge of all training at all hospitals in
5 the New York Medical College system.

6 Q. Was Dr. McCarrick ever apprised of
7 Dr. Ali's situation?

8 A. I work primarily with Dr. Bierman
9 since at the time he was my supervisor and
10 mentor. I don't recall where Dr. McCarrick
11 might have become aware of Dr. Amro's
12 lawsuit.

13 Q. Well, even prior to the lawsuit if
14 Dr. McCarrick was in charge of the
15 ophthalmology residency program shouldn't he
16 have been made aware of Dr. Ali's situation?

17 A. I -- yes, I will think so. I'm not
18 sure of what route.

19 Q. But you didn't apprise him of Dr.
20 Ali's situation?

21 A. I may have and I'm not -- I don't
22 remember though.

23 Q. Did you ever tell Dr. Ali orally or
24 in writing that you had no authority to
25 reward his work with a residency position in

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1 THADDEUS WANDEL

2 the ophthalmology program?

3 A. That would be fair to say. I use
4 words as I can help, I can promote, I can
5 provide as much access to getting interviews
6 and providing, say, the letter of
7 recommendation that I did. But as an
8 individual I cannot have one person come in
9 under my job designation.

10 Q. Right, so I'm asking.

11 A. What it's -- what is called a
12 progress.

13 Q. My question is: Did you explicitly
14 tell Dr. Ali you had no power to reward him
15 with a residency position?

16 A. Yes. And in different words.

17 Q. In what words?

18 A. That I could not guarantee him a
19 position.

20 Q. You used those words?

21 A. Yes.

22 Q. And when did you do that?

23 A. Probably when it came up for him
24 asking if, you know, his work would result in
25 a quid pro quo for residency position.

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2 Q. So that could have happened very
3 early on in his tenure when he was hired as a
4 faculty member?

5 A. That's right. Way back many years
6 ago.

7 Q. Do you know if that was ever put in
8 writing?

9 A. No.

10 Q. Why not?

11 A. I don't know. It never came up
12 that it would become an issue.

13 Q. As Dr. Ali reiterated the promise
14 that he believed you had made to him in
15 exchange for his research work wouldn't it
16 have been fair to him to put in writing that
17 you had no authority to reward him with any
18 residency position?

19 A. That came up in the e-mail that you
20 recently showed of my asking for a witness
21 for discussions with him and whether we
22 should write that we can't guarantee a
23 residency position signed by everybody who is
24 the leadership of the department.

25 Q. And no one ever did that?

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2 A. No, because it never came to our
3 attention that it might be an issue.

4 Q. Even after you received that or
5 issued that e-mail did you write to Dr. Ali
6 that you had no authority to reward him with
7 a position after three years of his work in
8 research that bore your name and benefited
9 from New York Medical College?

10 A. I never got feedback from the
11 people I e-mailed that that would be
12 appropriate.

13 Q. And no time on your own when Dr.
14 Ali raised the issue of his acquiring a
15 residency position did you write to him I
16 have no authority to reward you thusly?

17 A. By my actions and how I was working
18 with him I thought he would understand that.

19 Q. And when you came to believe that
20 he did not have the same understanding you
21 did you did not put anything in writing to
22 him to dispel his belief, correct?

23 A. Yes, which is the topic of that
24 e-mail that dates maybe a couple of years
25 ago.

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2 Q. Putting all other things aside, do
3 you think Dr. Ali was treated fairly by
4 working for New York Medical College
5 improving it's academic research, writing
6 multiple articles some bearing your name,
7 many bearing Dr. Sharma's name, doing IRB's,
8 doing lectures, promoting the creation of a
9 united clinic and then sort of saying to him
10 oh sorry, we didn't promise you a residency
11 program after three years of this hard work.
12 Do you think that was fair?

13 A. That came up in the angry meeting
14 that Dr. Amro had that prompted me to ask if
15 we should be writing a letter. And I would
16 never do what he did in his position. I
17 would have left long ago.

18 Q. Understood. What you would do.
19 But I'm asking if you view the totality of
20 Dr. Amro, Dr. Ali's situation having labeled
21 for three years with no pay, created research
22 manuscripts, publications, even bearing your
23 name and the institutions name, do you think
24 Dr. Ali was treated fairly? It's a simple
25 question.

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2 A. Again, everybody behaves in a
3 different fashion compared to others.

4 Q. I'm not asking about behavior. I'm
5 asking in your mind do you think Dr. Ali was
6 treated fairly under those circumstances?

7 MR. MILLUS: Objection to form.

8 You may answer.

9 A. That's a difficult question.
10 Everybody has their own way of needing in
11 life. If he wanted to do what he did I would
12 never make a judgment call whether something
13 is fair or not fair. That's the way he chose
14 to do it.

15 Q. I'm asking in your mind, I know you
16 wouldn't do it. I understand that.

17 A. You probably wouldn't either.

18 Q. I have done some things I regret
19 but for the betterment of man kind and a lot
20 of good deeds are if you know punished, but
21 I'm asking in fairness in your mind would you
22 expect it to be fair for Dr. Ali to work for
23 three years and walk away empty handed?

24 A. He's had an interesting experience.
25 He's had a good learning experience. He

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2 chose to do what he chose. I'm lost to put
3 words like good, fair, better for all. I
4 know what he did was actually going to work
5 out over time to be in his best interest
6 without having this happen he would not have
7 some other opportunity that would come to him
8 because of this experience. So, in five, ten
9 years from now he may look back on that and
10 sort of say Well, you know, that was a
11 learning experience now, I'm doing great.

12 Q. Just to be clear, you would not
13 have done what he did?

14 A. No.

15 MR. SADOWSKI: Thank you. No
16 further questions.

17 MR. MILLUS: Thank you.

18 (Time noted: 2:05 p.m.)
19
20

21 _____
THADDEUS WANDEL

22 Subscribed and sworn to before me
23 this ____ day of _____, 2020.
24
25 _____

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

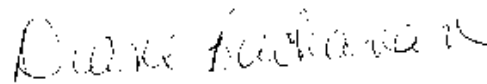
COUNTY OF KINGS)

I, DIANE BUCHANAN, a Notary Public
within and for the State of New York, do
hereby certify:

That THADDEUS WANDEL, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that
such deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome
of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 11th day of October,
2020.



DIANE BUCHANAN

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----- I N D E X -----

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	MR. MILLUS	67

----- INFORMATION REQUESTS -----

DIRECTIONS: 23

RULINGS: None

TO BE FURNISHED: None

REQUESTS: None

MOTIONS: None

----- EXHIBITS -----

WANDEL	FOR ID.
1 Letter	10
3 Document	36
4 E-mail	43
7 Letter	37
12 Document	57

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DEPOSITION ERRATA SHEET

Our Assignment No.: J6046652
Case Caption: Amro Ali, M.D., vs.
Westchester Medical Center

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury
that I have read the entire transcript of my
Deposition taken in the captioned matter or
the same has been read to me, and the same is
true and accurate, save and except for
changes and/or corrections, if any, as
indicated by me on the DEPOSITION ERRATA
SHEET hereof, with the understanding that I
offer these changes as if still under oath.

Thaddeus Wandel

Subscribed and sworn to on the ____ day of
_____, 20 ____ before me.

Notary Public,
in and for the State of

THADDEUS WANDEL
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DEPOSITION ERRATA SHEET

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DEPOSITION ERRATA SHEET

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